

REMARKS

I. Introduction

This is in response to the Office Action dated January 25, 2005. The Office Action rejected claims 1, 2 and 8 under 35 U.S.C. 103(a) as being unpatentable over Mishra (U.S. Pub. No. 2002/0110121) ("Mishra") in view of Heinonen et al. (U.S. Patent No. 6,671,370) ("Heinonen"). The Office Action also rejected claims 3-5 under 35 U.S.C. 103(a) as being unpatentable over Mishra in view of Heinonen and further in view of Epler et al. (U.S. Patent No. 6,026,156) ("Epler"). The Office Action also rejected claim 6 under 35 U.S.C. 103(a) as being unpatentable over Mishra in view of Heinonen further in view of Walker et al. (U.S. Patent No. 6,397,184) ("Walker"). The Office Action also rejected claim 7 under 35 U.S.C. 103(a) as being unpatentable over Mishra in view of Heinonen further in view of Meffert et al. (U.S. Pub. No. 2002/0059144) ("Meffert"). The Office Action also rejected claims 9, 11, 13 and 16-21 under 35 U.S.C. 103(a) as being unpatentable over Heinonen in view of Mishra. The Office Action also rejected claim 10 under 35 U.S.C. 103(a) as being unpatentable over Heinonen in view of Mishra and further in view of Meffert. The Office Action also rejected claims 12 and 15 under 35 U.S.C. 103(a) as being unpatentable over Heinonen in view of Mishra and further in view of Reformato et al. (U.S. Patent No. 6,229,880) ("Reformato").

Applicants have canceled claims 1 and 2. Applicants have amended claim 3 only to rewrite that claim in independent format. Claims 6-8 have been amended to depend on claim 3 instead of canceled claim 1. Claims 3-13 and 15-21 remain under consideration.

III. The Pending Claims As Amended are Patentable Over the Cited Art

A. 35 U.S.C 103(a) Rejection: Mishra in view of Heinonen, further in view of Epler

The Office Action rejected claims 3-5 as being obvious over Mishra in view of Heinonen, further in view of Epler. In order for an invention to be obvious under 35 U.S.C. 103(a), there must be some suggestion to combine or modify cited prior art references in a manner that would show or suggest the claimed invention. Applicants

have canceled claim 1 and have rewritten claim 3 in independent format. No other amendment to claim 3 has been made. In the present case, neither Mishra, Heinonen nor Epler, either alone or in combination, show or suggest all elements of the claimed invention of claims 3-5. Therefore, Applicants request the withdrawal of the rejection of claims 3-5 under 35 U.S.C. 103(a).

The present invention is generally directed to methods for identifying users over a network using a unique audible signature or personal sound identifier which refer to one or more short or abbreviated sound snippets or a selection of notes, tunes, themes, or melodies which identifies one user to other users.

Mishra teaches a method and apparatus for managing packet-based /Internet Protocol-based calls. According to Mishra, calls are managed by identifying the media type of a call, presenting call features associated with the media type to a subscriber and, after prompting the subscriber for input, receiving a call feature selection from the subscriber. Heinonen is directed to a telephone system and method whereby a calling user can select from a plurality of ringing indications, including sound information and/or visual information. According to Heinonen, these ringing indications are useful to identify the calling user to the recipient or to identify the priority of the call. Epler is directed to an enhanced call waiting feature in a telecommunication system. According to Epler, a caller is informed if a called party is engaged in another call. The second caller is then presented the option of interrupting the call or, for example, leaving a message. If the caller chooses to interrupt the call, the called party then has the option of accepting or refusing the call from the caller. For the reasons discussed below, neither Mishra nor Heinonen, nor Epler, alone or in combination, teach or suggest the presently claimed invention of claims 3-5.

Claim 3: Claim 3 is directed to a method for identifying users of a network. In part, claim 3 claims:

“A method for identifying users over a network, the method comprising:
receiving a message from a first user, the message identifying at least one
message recipient . . .

wherein the message received from the first user is an activity status message.”

The Office action cites Epler column 5, lines 61-67 and column 6, lines 1-2 of the Epler reference as teaching the above element, particularly “wherein the message received from the first user is an activity status message”. In particular, the Office Action states that the “Distinctive Ringing” of the Epler reference reads on the “activity status message” of claim 1. Applicants traverse.

Activity status of a user and messages transmitting such status are described in the present application at page 19, line 10 through page 21, line 7 of the specification. As described at that portion of the specification, activity status describes the status of a user, for example, whether that user is idle or active in a communication. As also described, such activity status can also describe which device that user is actively using at a particular time. The activity status can even indicate whether the user is focused on a particular window on, for example, a computer screen. In order for other users to track a particular user’s activity status, messages are sent from that particular user (e.g., automatically from the user’s communication device) to other user’s devices, which then may display the status of the particular user. This display may include an activity alert sound to indicate the status of the particular user or to indicate when the status of the particular user has changed.

The cited portion of Epler does not teach receiving an activity status message from a user as contemplated by the present invention. Instead, that passage of Epler discloses the already well-known Distinctive Ringing feature which, as is stated in that passage of Epler:

“As is known in the art, Distinctive Ringing allows a user to have multiple telephone numbers associated with a given line and the telephone(s) connected to the line ring distinctively depending upon the number called.”

The Distinctive Ringing of Epler, therefore, is not the same as the activity status message sent by a user or user’s device, as described above. Accordingly, contrary to the assertions of the Office Action, such Distinctive Ringing does not read upon the activity

status message element of claim 3. Additionally, neither Mishra nor Heinonen teach or suggest this element.

Since there is no teaching or suggestion of all elements of claim 3, this rejection is improper and claim 3 is allowable. Therefore, Applicants respectfully request the withdrawal of the rejection of claim 3 under 35 U.S.C. 103(a) and that claim 3 be allowed. It follows that claims 4-8 are allowable as being dependent upon an allowable base claim.

Claim 4: The Office Action cites column 5, lines 61-67 and column 6, lines 1-21 as teaching the element of claim 4 of “wherein the message provided to the at least one message recipient is an activity alert sound.” As described at page 19, line 10 through page 21, line 7 of the specification, and as discussed above, the activity alert sound indicates to a user the activity status or the change of activity status of another particular user. The cited passage of Epler only teaches Distinctive Ringing as described above and does not teach either activity status messages. This passage also does not discuss, teach or suggest in any manner using activity alert sounds to indicate the activity status of a particular user. Also, neither Heinonen nor Mishra teach or suggest this element. Accordingly, claim 4 is allowable for this additional reason. Since claim 5 is dependent upon claim 4, claim 5 is also allowable for this additional reason.

Claim 5: The Office Action next rejections claim 5, stating that Mishra teaches that “the preannouncement alerts the at least one callee that the first caller has become active on at least one client device” at each of cited portions of columns 4, 6 and 17 of that reference. Claim 5 claims “wherein the activity alert sound alerts the at least one message recipient that the first user has become active on at least one client device.” The Office Action asserts that the “pre-announcement” of the cited passage of the Mishra reference reads on the “activity alert sound” of claim 5.

Applicants cannot locate the cited passage in any of the references cited by the Examiner. Mishra does not display column or line numbers, however the cited lines of columns 4, 6 or 17 of the Mishra reference do not discuss “pre-announcements” much less any concept similar to an “activity alert sound.” Similarly, none of columns 4, 6 and

17 of either the Mishra or Heinonen references discuss a “pre-announcements” and do not teach or suggest “activity alert sound” as claimed. If the Examiner maintains this rejection, applicants request clarification of precisely which passage of which reference the Examiner is relying upon for the rejection. Otherwise, absent such clarification, claim 5 is allowable for this additional reason.

B. 35 U.S.C. 103(a) Rejection: Mishra in view of Heinonen further in view of Walker

Claim 6: The Office Action next rejects claim 6 under 35 U.S.C 103(a) as being unpatentable over Mishra in view of Heinonen, further in view of Walker. In a previous Response filed February 14, 2004, Applicants asserted that Walker was nonanalogous art to the field of telecommunications and, therefore, the combination of Walker with the cited references. The Examiner did not address this assertion, but did state in the Office Action dated May 24, 2004 that “the motivation for modification is to have doing so in order to provide the identification display.” Such a statement does not support any assertion that Walker is analogous to the data network communication field or, more particularly, to the references cited in previous Office Actions or those cited in the present Office Action. Thus, Applicants re-asserted in a Response, dated August 5, 2004, to a subsequent Office Action that the Walker reference was nonanalogous art. To date, the Office has yet to address Applicants assertion that Walker is nonanalogous art, but continues to maintain the rejection of claim 6 over this reference in combination with, in this case, Mishra and Heinonen. Therefore, once again, Applicants assert that, for the following reasons, Walker is nonanalogous art.

Specifically, claim 6 further limits the sound ID of claim 3 to being a “snippet of notes.” The Office Action admits that Mishra and Heinonen fail to disclose this limitation. The Office Action relies on Walker as supplying the missing disclosure. Walker is an invention in the photographic art and is directed to associating audio descriptions with photographs. As discussed in a previously-filed response in this application, yet to be addressed by the Office, the photography art is non-analogous to the network communications art. As such, it is improper to rely on Walker as a reference. The Court of Appeals for the Federal Circuit has addressed the issue of non-analogous art

and has set forth the standard that, in order to rely on a reference as a basis for rejection of an invention, the reference must either be in the field of the invention's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. In re Oetiker, 977 F.2d 1443, 1447 (Fed. Cir. 1992). Common sense must be used in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. Id. The combination of elements from nonanalogous sources, in a manner that reconstructs the invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. Id. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. Id. That knowledge cannot come from the Applicant's invention itself. Id.

In the present case, it is clear that an inventor working in the area of network communications would not reasonably be expected to look for a solution to a problem in the photographic arts. The motivation to search the patent database for the terms "snippet of notes" would only occur after having knowledge of the claimed invention of claim 6 and using impermissible hindsight. An inventor, working on the problem of data network communications, would not have any motivation to look to the photographic arts for a solution. As such, the reliance on Walker is impermissible.

Applicants request that the Examiner address the arguments provided above and in the previous Responses referenced above or, alternatively that the Examiner withdraw the rejection of claim 6 over Mishra in view of Heinonen, further in view of Walker. Applicants maintain that claim 6 is allowable for the above reasons and for the reasons cited in previous Responses. Therefore Applicants request the withdrawal of all rejections to claim 6 and the allowance of that claim.

C. 35 U.S.C. 103(a) Rejection: Mishra in view of Heinonen further in view of Meffert

Claim 7: The Office Action next rejects claim 7 as being obvious over Mishra in view of Heinonen, further in view of Meffert. Once again, the Office has failed to address the arguments that Meffert is nonanalogous art as has been stated by Applicants in the two prior Responses to Office Actions, discussed above. The Examiner did state

that “the motivation for modification is to have doing so in order to provide the attractive sound.” However, once again, such a statement does not support any assertion that Walker is analogous to the data network communication field or, more particularly, to the references cited in previous Office Actions or those cited in the present Office Action. The arguments presented in the previous amendment are once again presented herein below.

Claim 7 further limits the sound ID of claim 1 to being a “at least a portion of a popular song”. The Office Action relies on Meffert as supplying the missing disclosure. Meffert is an invention directed to secure content delivery using encryption. For reasons similar to those described above in connection with the Walker reference, and as also presented in a previous response filed in this application (also unaddressed by the Office), Meffert is in a different field of endeavor and there would be no motivation of one skilled in the art to look to the encryption/content delivery art for a solution to a network communication problem. Further, even if Meffert was considered to be in an analogous art, there is no motivation, except with impermissible hindsight, to combine Meffert with either Mishra or Heinonen. The Office Action states that Meffert “teaches that the sound ID is at least a portion of a popular song”. However, this is an incorrect characterization of Meffert. The cited portion of Meffert teaches encrypting songs, or trial portions of songs, for secure content delivery. This is very different from using a portion of a song as a sound ID in accordance with claim 7.

Applicants request that the Office address the arguments that Meffert is nonanalogous art or, alternatively allow claim 7. Applicants continue to maintain that, for the foregoing reasons and those stated in prior Responses, claim 7 is allowable over the cited art. Applicants therefore request the withdrawal of this rejection of claim 7 and request that claim 7 be allowed.

D. 35 U.S.C 103(a) Rejection: Heinonen in view of Mishra

The Office Action next rejected claims 9, 11, 13 and 16-21 under 35 U.S.C 103(a) as being unpatentable over Heinonen in view of Mishra.

Independent claim 9 is directed to a method for facilitating the identification of users in a network. According to claim 9, a plurality of audible signature selections from

a plurality of users in the network is received, each user selecting a unique audible signature to identify themselves to other users in the network. Then, communications are distributed between the plurality of users in the network with each communication accompanied by the unique audible signature of the user which initiated the communication so as to identify that user to one or more users who receive the communication. The Office Action cites the abstract, figures 2 and 3, and column 3, lines 13-29 of Heinonen as teaching “each user selecting a unique ringing indication to identify themselves to the other users in the network.” The Office Action further cites these same passages, as well as column 9, line 61 – column 10, line 6 as teaching “each communication is accompanied by the unique call ringing indication of the user. The Office Action then agrees with Applicants assertion in the August 5, 2004 Response by admitting that Heinonen does not teach a “unique audible signature.” However, the Office Action now relies on Mishra as teaching this element at page 3, paragraph 0044.

This cited portion of Mishra does not teach that the ringing indication is “unique” to a particular user, as claimed in claim 9. That passage of Mishra only discloses that, when an incoming call is received, the call media type is identified and then a notification is provided of the incoming call to a subscriber. The notification of Mishra may include information about the call and may display a picture or play a sound effect. However, nothing in Mishra teaches allowing a user to select a ringing indication or preventing more than one user from selecting the same ringing indication. For this reason, Mishra does not teach this element of claim 9. As admitted by the Office, Heinonen also fails to teach this limitation. Therefore, neither Mishra nor Heinonen, either alone or in combination teach or suggest all elements of claim 9. Accordingly, claim 9 is not obvious over those references and, it follows, claim 9 is allowable. As a result, claims 10-13 and 15 are allowable as being dependent upon an allowable base claim.

In addition, the dependent claims add additional patentable subject matter and are allowable for the additional reasons discussed below.

Claim 11: Claim 11 is directed to the method of claim 9 wherein “the user receiving the message is played the audible signature of the user which initiated the communication followed by the playing of the actual communication.” The Office cites

figures 2 and 3, column 3, lines 13-29 as well as column 9, lines 13-20 as teaching this element.

Figures 2 and 3 of Heinonen show a general system and steps of a method, respectively/, of how a ringing indication can generally be selected from a data file by a calling user. Column 3, lines 13-29 of Heinonen teaches “a calling user . . . pre-select(s) ringing information in the form of a ringing indication from a data file whose sound information/visual information is preferably known to all of, or at least some of, the telephone terminal users within the telephone system” and further teaches that “a call header . . . operates to set the receiving telephone terminal to receive the ringing information.” Column 9, lines 13-20 of Heinonen merely teaches a method whereby a calling user selects a ringing indication and that an incoming call at a receiving user is signaled by playing the ringing indication. Contrary to that which is asserted by the Office, these passages do not teach playing an audible signature of a user followed by the playing of the actual communication. At most, these passages of Heinonen imply that, upon receiving a ringing indication from a calling user, a receiving user can choose to initiate a communication (i.e., a telephone call) with the calling user. These passages do not teach an audible signature or, more particularly, a method wherein “the user receiving the message is played the audible signature of the user which initiated the communication followed by the playing of the actual communication” as is claimed in claim 11. Mishra also does not teach this element of claim 11. Therefore, neither Heinonen nor Mishra, either alone or in combination, teaches or suggests each and every element of claim 11 and, therefore, claim 11 is not obvious over Heinonen in view of Mishra. As a result, claim 11 is allowable for this additional reason.

Claim 16: Independent claim 16 also contains the limitation that “the ringing indications uniquely identify the selecting user to others in the communications network.” Accordingly, claim 16 is allowable for the same reasons as discussed above in association with claim 9. Neither Heinonen nor Mishra, either alone or in combination, teach or suggest all elements of claim 16. Therefore, it follows that claims 17 – 20 are allowable as being dependent upon an allowable base claim. In addition, the dependent claims add

additional patentable subject matter and are allowable for the additional reasons discussed below.

Claim 17: Claim 17 is directed to the method of claim 16 wherein a selection facility “comprises a plurality of audible sound identifiers organized into categories.” The Office cites figures 2 and 3; column 3, lines 13-29; column 5, line 64-column 6, line 8; and column 9, line 61 – column 10, line 6 of Heinonen as anticipating this element of claim 17. Once again, figures 2 and 3; column 3, lines 13-29; and column 9, line 61 – column 10, line 6 only teach that which is discussed above in association with claim 9. Column 5, line 64 – column 6, line 8 of Heinonen teaches a plurality of telephone systems or LANs that “are physically located to service (a plurality of) commercial organizations” and that each commercial organization has a plurality of telephone handsets. This passage further teaches that “each handset within a LAN system is located in a different user office of a given commercial organization or establishment.” These cited passages of Heinonen do not teach “a plurality of audible sound identifiers organized into categories” nor do they teach a selection facility comprising such categorized audible sound identifiers. Mishra also does not teach this element of claim 17. Therefore, neither Heinonen nor Mishra, either alone or in combination, teach or suggest all elements of claim 17 and, therefore, claim 17 is not obvious over those references. As a result, claim 17 is allowable for this additional reason.

Claim 18: Claim 18 is directed to the method of claim 16 wherein users are allowed to create their own audible sound identifiers for inclusion in the selection facility. The Office cites the abstract and column 6, lines 17-27 as teaching this element of claim 18. That portion of Heinonen, however, teaches that a ringing indication can be selected by the calling user from a predefined set of indications as a call is being placed or the indication can be selected by the receiving user in accordance with the type of the call. This passage of Heinonen does not teach a user creating their own audible sound identifiers for inclusion in the selection facility. Mishra also does not teach this element of claim 18. Therefore, neither Heinonen nor Mishra, either alone or in combination,

teach or suggest all elements of claim 18 and, therefore, claim 18 is not obvious over those references. As a result, claim 18 is allowable for this additional reason.

Claim 19: Claim 19 is directed to the method of claim 16 wherein the audible sound identifiers are not re-played for a user during repetitive communications between the users. Claim 19 has been amended to replace the phrase “user” with “the receiving user” to correct a typographical error. Support for this term is found in claim 16. The Office cites figures 2 and 3; column 3, lines 13-29; and column 9, line 61 – column 10, line 6 of Heinonen as anticipating this element of claim 19. Once again, these passages only teach that which is discussed above in association with claim 9. These passages do not teach ringing indications that are not replayed for a user during repetitive communications between the users. Mishra also does not teach this element of claim 19. Therefore, neither Heinonen nor Mishra, either alone or in combination, teach or suggest all elements of claim 19 and, therefore, claim 19 is not obvious over those references. As a result, claim 19 is allowable for this additional reason.

Claim 21: Independent claim 21 is directed to a method as taught in claim 9, further comprising “providing a selection of audible signatures for selection by the plurality of users. . . wherein “two or more users are prevented from selecting the same audible signature.” The Office cites figure 6 and column 3, lines 13-29 of Heinonen as teaching the latter element. However, once again, these cited sections only teach that which is recited above in association with the discussion of claim 9. These sections do not teach preventing users from selecting the same audible signature as claimed in claim 21. Mishra also does not teach this element of claim 21. Therefore, neither Heinonen nor Mishra, either alone or in combination, teach or suggest all elements of claim 21 and, therefore, claim 21 is not obvious over those references. As a result, claim 21 is allowable for this additional reason.

Thus, for the foregoing reasons, claims 9, 11, 13 and 16-21 are not unpatentable over Heinonen in view of Mishra. Applicants respectfully request that the rejection of those claims under 35 U.S.C 103(a) be withdrawn and that those claims be allowed.

E. 35 U.S.C 103(a) Rejection: Heinonen in view of Mishra further in view of Meffert

Claim 10 contains the limitation that the “audible signature is a portion of a song”. The Office Action rejected claim 10 in reliance on Meffert as teaching this element. Neither Heinonen nor Meffert teach this element and, therefore, Claim 10 is allowable for the same reasons as discussed above in connection with claim 7.

F. 35 U.S.C. 103(a) Rejection: Heinonen in view of Mishra, further in view of Reformato

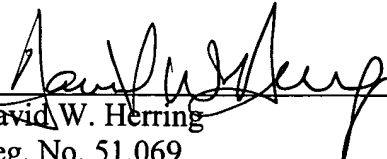
The Office Action next rejects claims 12 and 15 as being obvious over Heinonen in view of Mishra, further in view of Reformato. In rejecting claim 12, the Office Action admits Heinonen in view of Mishra fails to teach “activity status update” and cites Reformato as disclosing the missing disclosure. The cited portion of Reformato discloses updating a database to reflect changes in the status information associated with a subscriber. However, claim 12 is directed to a “communication” or “message” which indicates an activity status. Reformato does not disclose such a communication or message to other users and therefore does not provide the missing disclosure. Therefore, in addition to being allowable as being dependent upon allowable claim 9, claim 12 is allowable for this additional reason.

Claim 15 teaches, in part, the method of claim 13 where the audible signature is preceded by an activity signal. Once again the Office Action relies on Reformato as disclosing this element. However, for the same reasons discussed in association with claim 12 above, Reformato does not disclose a communication or message which indicates an activity status to other users. Therefore, Reformato does not provide the missing disclosure. Accordingly, claim 15 is allowable for this additional reason.

IV. Conclusion

Claims 1 and 2 have been canceled. For the reasons discussed above, claims 3-13 and 15-21 are allowable over the cited art. Reconsideration and allowance of all claims is respectfully requested.

Respectfully submitted,


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